IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No.2345 of 2006

Ashta Lokmanya Nagari Sahakari
Pat Sanstha Maryadit ..Petitioner

vs.

1. Shri Gangadhar Vishwanath
Mahajan and others ..Respondents

Shri A.B.Vagyani for petitioner
Shri T.S.Ingale for respondent nos. 1 to 8
Shri R.M.Patne, A.G.P. forf respondent no.9

CORAM: S.B.MHASE J.
7th April, 2005

P.C.

1. Heard the learned Counsel for the parties.

2. The dispute No.887 of 1999 is filed before the Cooperative Court No.2, Kolhapur by the present petitioner Cooperative Society. In the said dispute application Exh.5 was submitted by the disputant seeking interim relief as against the respondents. By order dated 22nd April, 2004 the order dated 7th September,1999 passed below Exh.5 in respect of the properties mentioned at Sr.Nos.,4 5 and 6 in Exh.5 was continued till the final disposal of the dispute and the disputant was allowed to attach the properties mentioned in para 6 at Sr..Nos.1, 2 and 3 of application Exh.5. The said order was challenged by the respondent before the Cooperative Appellate Court, Bench at Pune in Cooperative Appeal No.90 of 2005 and by judgment dated 4th February, 2005 the Maharashtra State

Cooperative Appellate Court, Mumbai, Bench at Pune allowed the said appeal and set aside the order passed below Exh.5. Being aggrieved by the said order of the Maharashtra State Cooperative Appellate Court, in Cooperative Appeal No.90 of 2005, the petitioner/original disputant ;society has approached this Court by filing the present petition. It is reported by both the learned Counsel that during the pendency of this petition, main dispute no.887 of 1999 pending before the Cooperative Court No.2, Kolhapur has been decided on merit and award has been passed partly allowing the dispute in favour of the petitioner. Under these circumstances, learned counsel for the petitioners, states that nothing survives in the present petition and the petitioner may be allowed to withdraw the petition with liberty to raise the grounds raised in this petition in the appeal to be filed against the said order. The disputant desires to challenge the award to the extent it is not granted by the Cooperative Court. The petitioner, therefore, seeks liberty to raise these points in case the respondents file an appeal against the Award passed by the cooperative Court by way of cross objections to the said appeal.

3. Under these circumstances I find it fair and appropriate to dispose of the petition with liberty as claimed by the learned Counsel. Therefore, leave to withdraw the petition is granted with liberty to raise the points raised in this petition if the petitioner

challenges the award passed by the Cooperative Appellate Court to the extent the said award is adverse to the petitioner. Liberty is further granted to raise the points raised in this petition to the petitioner by way of cross objections if the respondents prefer the appeal as against the award passed by the Cooperative Court. Petition is accordingly disposed of.

(S.B.MHASE J.)